

DEADLINES APPROACHING: GOVERNMENT OF CANADA LAUNCHES SERIES OF CONSULTATIONS ON CANADA'S TRADE FUTURE

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The Government of Canada has launched an unprecedented series of public consultations on trade policy, including employing section 53 of the *Customs Tariff* to authorize trade measures in response to threats to Canada's trade interests.

The consultations cover four distinct, yet interrelated, topics: a proposed 25% surtax on Chinese steel and aluminum products, measures to advance and defend Canada's economic security interests, surtaxes in critical manufacturing sectors, and the Canada-United States-Mexico Agreement.

These consultations present an aggressive stance on trade policy reform and offer a rare and critical opportunity for industry stakeholders to impact Canadian policy. Below, we highlight each consultation, the deadlines for submission, and potential stakeholder considerations.

1. 25% surtax on steel and aluminum products from China

Deadline for submissions: September 20, 2024

July consultations on policies relating to Chinese practices in the electric vehicle ("EV") industry resulted in a 100 per cent surtax on EVs from China, effective October 1, 2024. Following the EV consultations, the Department of Finance ("Finance") has announced a 25 per cent surtax on Chinese steel and aluminum imports, effective October 15, 2024. The surtax is intended to prevent trade diversion and protect Canadian workers and investments against unfair Chinese trade policies.^[2]

Finance is seeking comments on the surtax by September 20, 2024, particularly on the scope of the [initial list of goods](#). The final list of goods will be announced on October 1, 2024.^[3] Stakeholders should reference specific products that should, or should not, fall under the surtax, as well as general benefits and risks of the proposed tariffs.

Stakeholders should consider advantages and disadvantages of an economic burden on those seeking to

import Chinese steel or aluminum products, and potential difficulties for Chinese steel and aluminum producers to remain competitive in Canadian markets under a surtax.

Depending on the circumstances, there is also the potential for partial or complete duty relief on the surtax if the imported Chinese steel and aluminum goods are re-exported from Canada, or further processed into goods that are re-exported. The scope of duty relief will be addressed in a forthcoming McMillan client bulletin.

2. New measures to advance and defend Canada's economic security and supply chain interests

Deadline for submissions: September 23, 2024

Global Affairs Canada ("**GAC**") has launched consultations on measures to address countries' protectionist and non-market policies, and forms of economic threats or coercion.^[4] The consultations are open August 9 through September 23, 2024.

Stakeholders are invited to submit views on the following proposed measures:^[5]

- Suspending benefits under free trade agreements in response to harmful trade actions.
- Trade remedies, such as anti-circumvention and enforcement, that may help protect domestic industries against unfairly dumped or subsidized imports.
- New forms of investigative powers or reviews.
- Potential policy measures to strengthen supply chains, including by restricting eligibility for trade and investment benefits.
- Expanding incentives and tax credits for targeted sectors to counteract unfair foreign anti-competitive practices.
- Trade controls under the *Export and Imports Permits Act* to address and respond to national security risks stemming from advanced dual-use technologies exports, and potential items to add to the Export and Import Control Lists.
- Export duties or restrictions on specific products in critical or strategic sectors in response to other countries' trade actions or for economic security.
- Investing in critical minerals supply chains such as through financing or other measures.

Stakeholders should consider whether trade controls to regulate imports and exports could assist in protecting both Canada's economic security interests and stakeholders' business interests, and whether there are gaps in existing measures. Stakeholders should also assess whether targeted tariffs may protect domestic critical minerals industries, thereby reducing threats from unfair foreign competition.

3. Consultations on surtaxes in critical manufacturing sectors

Deadline for submissions: October 10, 2024

On September 10, 2024, Finance announced 30-day consultations on potential surtaxes designed to protect Canadian workers in critical manufacturing sectors, and in support of Canada's net-zero transition. The consultations are open from September 10 through October 10, 2024.^[6]

Finance is seeking views on whether to impose surtaxes and the scope and rate of potential surtaxes for batteries and battery parts, semiconductors, solar products, and critical mineral products.^[7] Finance is also seeking comments on the timing of such tariffs coming into force. Stakeholders should consider whether surtaxes in critical manufacturing sectors will enable competition and economic benefits in their industry by leveling the playing field with China and other foreign actors.

These consultations form part of the government's broader efforts to reduce unfair competition from foreign producers. The surtax consultations also relate to those launched earlier this summer for tariffs on Chinese EVs, which resulted in a 100 per cent surtax on Chinese-made EVs, effective October 1, 2024.^[8]

4. Consultations on the Canada-United States-Mexico Agreement (CUSMA)

Deadline for submissions: October 31, 2024

In 2026, Canada, the United States, and Mexico will undertake a joint review of the CUSMA to ensure the Agreement remains current in shifting economic and political landscapes. From August 21 through October 31, 2024, GAC is holding public consultations for key areas of CUSMA, including those that are functioning well and those that need improvement and review, in preparation for the 2026 review.^[9]

In preparing submissions, stakeholders should consider their priorities in trade and market access. In addition, stakeholders may wish to consider their concerns relating to key CUSMA areas, such as labour, environment, energy, digital trade, and automotive trade, among others.

Conclusion

Government consultations facilitate communication with industry stakeholders on policies that will impact them and their businesses. Stakeholders are encouraged to submit written comments by the deadlines outlined above to ensure their views are considered.

McMillan's International Trade Group regularly assists leading Canadian and global companies in articulating their perspectives on trade policy, trade controls, and economic and national security matters. Our team is available to support your participation in these consultation processes.

[1] See earlier McMillan bulletin: Charging Forward on Tariffs: [*The Government of Canada Launches*](#)

[*Consultations on Tariffs on Chinese Electric Vehicles*](#), July 3, 2024.

[2] Department of Finance, [*Notice of intent to impose surtaxes on Chinese steel and aluminum in response to unfair Chinese trade practices*](#), online.

[3] *Ibid.*

[4] See earlier bulletin: [*Tariffs, Trade, and Economic Security: Insights on Canada's Latest Consultation*](#), August 21, 2024.

[5] Global Affairs Canada, *Share your views: Public consultations on potential new measures to advance and defend Canada's economic security interests*, [online](#).

[6] Department of Finance Canada, *Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors*, [online](#).

[7] Government of Canada, *Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors*, [online](#).

[8] Department of Finance Canada, *Canada implementing measures to protect Canadian workers and key economic sectors from unfair Chinese trade practices*, [online](#).

[9] Global Affairs Canada, *Join the discussion: Consulting Canadians on the operation of the Canada-United States-Mexico Agreement (CUSMA)*, [online](#).

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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